

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERALD H. STOLP,

Petitioner,

v.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

Case No. [16-cv-00498-JD](#)

**ORDER OF DISMISSAL;
DENYING CERTIFICATE OF
APPEALABILITY**

Re: Dkt. Nos. 1, 2, 7

This pro se habeas action was initiated when petitioner filed a motion for a stay. Petitioner was advised that if he did not submit a formal petition by May 23, 2016, the case would be dismissed. No petition has been received. Without an underlying petition or case and controversy, the Court cannot rule on the motion to stay.

It appears that petitioner was convicted in Calaveras County, which is in the Eastern District of California. Petitioner filed a separate petition in this Court, No. 16-1265 JD, that was transferred to the Eastern District. Assuming both petitions concern the same underlying conviction this case is **DISMISSED** and **CLOSED** as duplicative and petitioner should proceed on the case in the Eastern District. If this petition concerns a different conviction it is still dismissed for failure to file a petition. All pending motions (Docket Nos. 1, 2, 7) are therefore **DENIED**. Because reasonable jurists would not find the result here debatable, a certificate of appealability ("COA") is **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000) (standard for COA).

IT IS SO ORDERED.

Dated: August 30, 2016



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERALD H. STOLP,
Plaintiff,

v.

PEOPLE OF THE STATE OF
CALIFORNIA,
Defendant.

Case No. [16-cv-00498-JD](#)

CERTIFICATE OF SERVICE

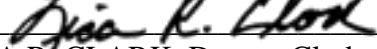
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 30, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Gerald H. Stolp ID: ID: AK4738
California Correctional Institution
P.O. Box 1902
Tehachapi, CA 93581

Dated: August 30, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO